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Company secretary pdf

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Secretaries play crucial roles in various organizations, including cooperative societies, government departments, local bodies, trade unions, and companies. The main responsibilities of a secretary generally include: * Managing affairs and executing decisions made by a managing committee or authority * Maintaining records and registers * Arranging meetings and conferences * Coordinating activities and providing administrative support In specific contexts: 1. **Cooperative Society Secretary**: Assists the managing committee, executes their decisions, maintains records, arranges meetings, and attends conferences on behalf of the society. 2. **Government Department Secretary**: Serves as the executive head and adviser to a minister, responsible for overall control, day-to-day administration, guiding subordinate officers, and coordinating activities with allied departments. 3. **Local Body Secretary**: Supervises and coordinates office activities, prepares budgets, statements, arranges meetings, drafts minutes, and serves as a link between authorities and staff. 4. **Trade Union Secretary**: Holds union meetings, records proceedings, maintains accounts and statutory books, conducts correspondence, advises on labor matters, negotiates disputes with employers, and works to settle disputes. 5. **Company Secretary**: Guides management in company law and mercantile law, handles accounts, taxation, meeting arrangements, report drafting, and resolutions, performing ministerial and administrative duties. In general, secretaries play vital roles in supporting the functions of their respective organizations, ensuring smooth operations, and making informed decisions. They have multiple roles: to the board, shareholders, and the company. The secretary's position is prominent in industries due to the growth of joint stock companies, giving them a prestigious status. Section 2(45) of the 1956 Companies Act defines a company secretary as someone who is either a member of the Institute of Company Secretaries of India or possesses the required qualifications, appointed to perform duties imposed by the act. The Companies [Amendment] Act 2015 allows companies to appoint secretaries with limited executive power of management delegated by the Board of Directors. If entrusted with routine duties, they're called 'Routine Secretary', and if given managerial powers, they're known as 'Executive Secretary'. 4. Negotiate contracts with third parties on behalf of the Company. 5. Act as a Liaison officer to establish links between the company and outsiders. 6. Serve as an adviser and guide to the board of directors on important matters of policy and administration. The person appointed as secretary in a company must inform other companies about his new role within 20 days. Also, if the director is interested in appointing the secretary, they should reveal their intent and not participate in voting on this matter. However, if the secretary is also a company director or related to one, a special resolution is required for such appointment. Typically, people who cannot be appointed as secretaries include directors of other companies, auditors, and those ineligible to make contracts. Although directors can be appointed as secretaries by passing a specific resolution, they will then have to give up their director roles. In terms of duties, the company secretary's responsibilities vary depending on the company size, business type, and powers held. Broadly, these duties fall into statutory and general categories: - **Statutory Duties**: These are tasks mandated by laws such as the Companies Act, Income Tax Act, and others. Key tasks include maintaining company records, filing necessary documents, handling share issues, attending meetings, and safeguarding the company seal. - **General Duties**: This includes responsibilities towards directors, shareholders, employees, and the public, such as: - **Duties in Relation to Directors**: - Overseeing director appointments - Handling their attendance at board meetings - **Duties in Relation to Shareholders**: - Communicating with them on company matters - Maintaining records of shareholder information - **Duties towards Organisation and Office**: - Managing day-to-day operations of the office - Overseeing the maintenance of the organization's infrastructure - **Duties in Relation to the Public**: - Complying with public regulations and laws - Representing the company appropriately A company secretary is responsible for ensuring compliance with various laws and regulations, including the Income-tax Act, Stamp Act, and Sales-tax Act. He must also adhere to provisions of other relevant acts, such as the Factories Act and Industrial Disputes Act, depending on the company's specific industry. As a servant of the law, the secretary plays a crucial role in ensuring that the company complies with its obligations. He is responsible for various duties related to directors, including corresponding with them, convening board meetings, preparing minutes, and executing orders. The secretary must also advise directors on legal provisions during deliberations and serve as a guide to the board. In addition to these duties, the secretary acts as the confidential clerk of the board, interpreting its policies and communicating decisions to staff and shareholders. He is responsible for keeping the board informed about company developments and ensuring that instructions are carried out. The secretary also serves as a medium of communication between the company and its shareholders. He must safeguard their interests, respond to inquiries regarding dividends, share issues, and other matters, while maintaining confidentiality and tactfully handling sensitive information. The secretary organizes and supervises correspondence with shareholders regarding various topics, including share applications, allotments, calls, forfeitures, transfers, and transmissions. 1. **Company Secretary Responsibilities**: * Issue notices and circulars to members * Manage shareholder inquiries and complaints * Oversee miscellaneous duties such as acting with authority, honesty, care, and diligence; maintaining confidentiality; and representing the company at social events. 2. **Duties Towards Organization and Office**: * Head of the office, overseeing departments like shares, records, accounts, and statistics. * Ensure maximum efficiency in office operations by supervising activities and coordinating departmental efforts. * Select, organize, guide personnel to maximize staff potential through personal contact with individual members. 3. **Duties In Relation To The Public**: * Function as a communication medium between directors and the general public (debenture holders, bankers, solicitors, creditors, prospective investors). * Maintain public contact while ensuring confidentiality of company information. * Serve as liaison officer between shareholders and directors; discharge duties in the best interest of the company. 4. **Qualifications For Company Secretary**: * Individuals with a paid-up share capital under Rs. 2 crores can be appointed without specific qualifications. * Otherwise, they must possess any one of the following qualifications: + Membership of the Institute of Company Secretaries of India (ICSI). + Pass in the intermediate examination conducted by ICSI. + Post-graduate degree in commerce or corporate secretaryship from any Indian university. + Law degree awarded by any Indian university. + Membership of the Institute of Cost and Works Accountants of India. + Membership of the Institute of Chartered Accountants of India. (VIII) Membership with Association of Secretaries and Managers in Calcutta. (XI) Post-graduate degree or diploma from Indian Institutes of Management, Bangalore, Calcutta, Lucknow, Ahmedabad, or Calicut. (IX) Diploma in Corporate Laws and Management from the India Law Institute in New Delhi. (X) Post-graduate degree or diploma in Management Sciences from any University. (VII) Company Law and Secretarial Practice certification from the University of Udaipur. Qualifications for a company secretary: * Sound general education to understand complex subjects efficiently. * Command over languages, including specialized business terms and expressions. * Knowledge of office administration, including filing systems, labor-saving devices, staff recruitment, remuneration methods, and delegation of work. * Basic understanding of accounting and taxation principles, including income tax and sales tax. * Thorough knowledge of the Companies Act provisions to ensure compliance with company laws. Handling staff requires a deep understanding of relevant legislation, such as the Factories Act and Payment of Wages Act. Additionally, knowledge of Mercantile Law, including contracts and negotiable instruments, can be beneficial in managing day-to-day operations. Being well-versed in the company's business and industry is also crucial, enabling the secretary to provide informed guidance on intricate matters. Furthermore, general knowledge, encompassing current events, economic conditions, and social trends, helps the secretary navigate complex situations with confidence. However, a successful company secretary must possess impressive personality traits such as strong communication skills, organizational abilities, creativity, and high moral character. **Delegation of Power and Company Secretary Liabilities** 1. **Authorization**: The company directors can delegate their powers to the secretary, allowing them to make representations on behalf of the company or enter into contracts without explicit consent. 2. **Secretary's Liabilities**: The liabilities of the company secretary can be categorized into two types: statutory and contractual. **Statutory Liabilities** As the principal executive officer, the secretary has specific obligations under various acts, including: * Holding statutory meetings * Circulating reports * Conducting Annual General Meetings * Submitting annual accounts and statements to the Registrar of Companies * Giving notice of Board Meetings * Recording meeting minutes * Maintaining minute books and allowing member inspection Failure to comply with these obligations can result in liabilities imposed by the Companies Act and other relevant acts. **Contractual Liabilities** The secretary may also be liable for contractual obligations, such as: * Borrowing on behalf of the company * Entering into contracts without explicit consent from the directors These liabilities are not statutory but rather arise from the terms and conditions of the contracts or agreements entered into by the secretary. The role of a company secretary under the Tax Act, 1961 and the Indian Stamp Act, is multifaceted. - The company secretary is responsible for collecting and paying income tax. - Under the Indian Stamp Act, they are in charge of verifying document correctness needing stamps. Contractual Liabilities Apart from statutory duties, the company secretary has contractual obligations arising from their employment agreement. Key responsibilities include: 1. Following directors' instructions. 2. Fulfilling service contract commitments. 3. Maintaining confidentiality of company information. 4. Not exceeding authority limits. 5. Performing tasks with reasonable care and skill. 6. Avoiding damages through wilful misconduct or negligence. 7. Being held accountable for assistants' fraudulent actions if involved. Legal Position The Companies Act designates the secretary as principal officer, responsible for administrative work. Failing to meet statutory obligations can result in liability. Secretary Status Law views the secretary as a mere servant, requiring directorial orders and lacking managerial authority. Their role is subordinate, with no independent discretion allowed. Actual Company Secretary Role In reality, the company secretary plays an important administrative role within the organization. They act beyond mere servant or agent status, possessing significant influence in company operations. In the organizational structure, both the Board of Directors and the Secretary play complementary roles to each other. The Board is responsible for making high-level decisions and formulating policies for the company. However, it's the Secretary who is in charge of implementing these policies and carrying out the orders of the Board. This collaborative dynamic has been aptly described as the Board being the "brain" of the company, while the Secretary serves as its "eyes, ears, and hands". The Secretary maintains close contact with the work of the Board and has access to confidential matters within the company. They exercise discretion in routine affairs, staff, shareholders, and outside matters. The Secretary is often consulted by the Chairman and the Board on policy decisions or important issues due to their intimate knowledge of the company and its operations. Their expertise also makes them a valuable advisor on various matters related to company functioning and legislative enactments. In terms of responsibilities, the Secretary acts in multiple capacities, including: * Acting as the agent of the Board and carrying out instructions * Serving as the registrar of the company for secretarial functions like filing returns and statements * Handling routine office work and managerial duties entrusted by the Board * Advising directors and the Chairman on important matters affecting business * Liaising between the Board, staff, shareholders, and the public * Ensuring confidential matters are not leaked * also required to act as a public relations officer of the company and improve the image of the company in the minds of the public. REMOVAL OR DISMISSAL OF A COMPANY SECRETARY The Secretary can be removed from office by the board of directors, following the rules stated in the articles or their general powers. As a company servant, his suspension and dismissal are regulated by the standard laws for employer and employee. The secretary's services can be ended by giving him notice as agreed upon in the employment contract. If there is no specific notice period mentioned, a reasonable amount of time must be given. The services can be terminated without notice if he secretly makes profits or is guilty of willful disobedience, misconduct, negligence, fraud, dishonesty, permanent disability or other serious offenses. The appointment of a receiver or manager in a court case filed by debenture holders or the court's order for compulsory liquidation of the company can also terminate the secretary's services.